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Situation of human rights in Myanmar

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly, the interim report prepared by Paulo Sergio Pinheiro, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, in accordance with Commission resolution 2001/15 and Economic and Social Council decision 2001/251.

* A/56/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 20 August 2001 so as to include as much updated information as possible.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar

Summary

The present report is the first report of the present Special Rapporteur, appointed to this mandate on 28 December 2000. The report refers to his activities and developments relating to the situation of human rights in Myanmar between 1 January and 14 August 2001.

In view of the brevity and exploratory nature of the Special Rapporteur's initial visit to Myanmar in April and pending a proper fact-finding mission to take place at the end of September 2001, this report addresses only a limited number of areas.

In the Special Rapporteur's assessment as presented in this report, political transition in Myanmar is a work in progress and, as in many countries, to move ahead incrementally will be a complex process.

In the human rights context, against the background of ongoing talks between the Government and the opposition, there have been some positive signals indicative of the Government's endeavour to make progress. Those include the dissemination of human rights standards for public officials, work of the governmental Committee on Human Rights, releases of political detainees, reopening of branches of the National League for Democracy (NLD), the main opposition party, the continued international monitoring of prison conditions, and cooperation with the Commission on Human Rights, inter alia, through the mandate of this Special Rapporteur and with the Special Envoy of the Secretary-General for Myanmar and the International Labour Organization.

Among the areas in most need of significant improvement is the situation of vulnerable groups, inter alia, children, women and ethnic minorities and, in particular, those among them who have become internally displaced in zones of military operations. Overall, there exists a complex humanitarian situation in Myanmar, which may decline unless it is properly addressed by all concerned.

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I. Introduction

1. The present report is submitted pursuant to Commission on Human Rights resolution 2001/15 of 18 April 2001. In paragraph 7 (a) thereof, the Commission decided to extend the mandate of the Special Rapporteur for one year and requested him to submit, inter alia, an interim report to the General Assembly at its fifty-sixth session.

2. This is the first report of the present Special Rapporteur, appointed to this mandate on 28 December 2000, following the resignation of Justice Rajsoomer Lallah in November last year. The Special Rapporteur takes this opportunity to honour the work done by his eminent predecessors, Professor Yozo Yokota and Justice Rajsoomer Lallah, for their impeccable dedication to this mandate, which he hopes to be able to follow.

3. The preparation of this report has been quite a challenge for a number of reasons. There have been some interesting dynamics in the political and social fabric of the country, some of which had implications for the human rights situation in the country. To some extent, this was observed by the Special Rapporteur during his first visit to Myanmar in April 2001. However, owing to the exploratory nature of the visit, there was not sufficient time to obtain comprehensive information for making an adequate assessment of the overall situation of human rights in the country.

4. Pending a fact-finding mission, to take place at the end of September 2001, which had been accepted by the Myanmar Government, the Special Rapporteur identified the areas where he felt he could offer some assessment now. As a result, there are, inevitably, matters that will not be addressed in this interim report. Overall, the Special Rapporteur has attempted to capture the main areas where he saw progress and where it has yet to be seen.

5. For the purpose of this report, the Special Rapporteur used many sources of information, including the Government of the Union of Myanmar, other Governments, various United Nations and other intergovernmental agencies, individuals, non-governmental organizations and the media. The report is based upon information received by the Special Rapporteur up to 14 August 2001.

II. The Special Rapporteur's activities

A. Terms of reference

6. Commission on Human Rights resolution 1992/58 of 3 March 1992,[1] which established the mandate of the Special Rapporteur on the situation of human rights in Myanmar, frames the following terms of reference: "to establish direct contacts with the Government and with the people of Myanmar, including political leaders deprived of their liberty, their families and lawyers, with a view to examining the situation of human rights in Myanmar and following any progress made towards the transfer of power to a civilian government and the drafting of a new constitution, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar".

7. In the view of the Special Rapporteur, despite the clear nature of the fact-finding requirement of his mandate as applied to civil and political rights in the context of political transition, the foundation of that mandate is the universal human rights norms and, accordingly, the main purpose of his statements, initiatives, and activities is to advance the best interests and protection of the victims of all human rights violations and the promotion of all human rights in Myanmar.

8. In discharging his mandate, the Special Rapporteur has endeavoured not to be trapped by clichés and sought to act in full transparency. He articulated his approach to the mandate to various interlocutors he met and made it clear that he does not represent any group of interests and is accountable only to the Commission on Human Rights.

B. Initial activities

9. The Special Rapporteur decided to begin his activities by undertaking an exploratory visit to Myanmar to establish direct contact with the Government and the National League for Democracy (NLD), the main opposition party. To this end, during January, February and March 2001, he travelled to Geneva three times for initial consultations with senior officials from the Myanmar Government. During his stays in Geneva, the Special Rapporteur also met with representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR),

various United Nations and non-governmental organizations, scholars and diplomatic missions, and received representations from interested persons concerning alleged human rights violations in Myanmar. He also visited United Nations Headquarters for consultations with the Special Envoy of the Secretary-General for Myanmar, Ambassador Razali Ismail, other United Nations officials and diplomatic missions.

10. On 5 February 2001, the Special Rapporteur addressed a letter to the Government of Myanmar requesting permission to visit the country for a brief exploratory visit during the final week of March. In order to establish contacts and gather the necessary information, he requested audiences with high officials from the Government and meetings with a range of other persons knowledgeable on the situation of human rights in the country, including the Human Rights Committee established by the Government. He explained his intention of pursuing the path of close and open cooperation with the Government, including by means of exchange of information, direct contacts and ongoing consultations.

11. In preparation for the visit to Myanmar, the Special Rapporteur travelled to Japan, Malaysia and Thailand. The purpose of those visits was to learn and better understand the perspectives of those countries on the human rights and humanitarian situation in Myanmar and their corresponding national policies. The mission was fully accomplished through very fruitful discussions with government officials, civil society and members of the legislative bodies of those States. The Special Rapporteur is convinced that Myanmar's neighbours and the States members of the Association of Southeast Asian Nations (ASEAN) will play, and are already playing, a pivotal role in the course of political transition in Myanmar.

12. During his visit to Tokyo (25 and 26 March 2001), the Special Rapporteur met with Mr. Takasu, Director-General of the Multilateral Cooperation Department, and Ms. Taeko Takahashi, Director, First Southeast Asia Division, Asian and Oceanian Affairs Bureau, at the Ministry of Foreign Affairs. The Special Rapporteur took the opportunity to meet with his predecessor, the first Special Rapporteur on the situation of human rights in Myanmar, Professor Yozo Yokota. They exchanged views on the historical development of the mandate since its establishment in 1992, on the current human rights situation, and on the prospects for dialogue and national reconciliation in Myanmar. The Special Rapporteur also met with members of the legal profession and the Japanese civil society and with a member of the House of Councillors knowledgeable on the situation of human rights in Myanmar.

13. In the course of his visit to Kuala Lumpur (27 and 28 March 2001), the Special Rapporteur met with Ambassador Jasmi M. Yusoff, Under-Secretary, Multilateral Political Affairs, and Mr. M. Taufik M. Noor, Under-Secretary, Southeast Asia and South Pacific Division, Ministry of Foreign Affairs. The Special Rapporteur met with Ambassador Razali Ismail, the Special Envoy of the Secretary-General for Myanmar, with whom he agreed to coordinate future activities. With Dato' Param Cumaraswamy, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur exchanged views on the current human rights situation in respect of his mandate and on prospects for the future. They also touched upon the work of the Working Group for an ASEAN Human Rights Mechanism and its activities in respect of the human rights situation in Myanmar. The Special Rapporteur was also in contact with members of the Malaysian civil society organizations and a member of Parliament familiar with human rights issues in Myanmar and the position of refugees and other migrants of Myanmar origin living in Malaysia.

14. During his visit to Bangkok (29 March-2 April 2001), the Special Rapporteur met with Mr. Nitya Pibulsonggram, Permanent Secretary, and Mr. Surapong Jayanama, Director-General, Department of East Asian Affairs, at the Ministry of Foreign Affairs. He also met with individuals and representatives of a number of Thailand-based and international civil society organizations and associations who are knowledgeable on the human rights situation in Myanmar. Finally, he took the opportunity to meet and exchange views with representatives of the following intergovernmental organizations: the United Nations Development Programme (UNDP), the Economic and Social Commission for Asia and the Pacific (ESCAP), the Food and Agriculture Organization of the United Nations (FAO), the International Bank for Reconstruction and Development (IBRD), the International Labour Organization (ILO), the International Telecommunication Union (ITU), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Population Fund (UNFPA), the Office of the United Nations High Commissioner for Refugees (UNHCR),

the United Nations Children's Fund (UNICEF), the United Nations Development Fund for Women (UNIFEM), the World Food Programme (WFP), the Office of the United Nations Resident Coordinator, and the Inter-Agency Support Unit.

C. Exploratory mission to Myanmar

15. The Special Rapporteur visited Myanmar from 3 to 5 April 2001. During his visit to Myanmar all of the Special Rapporteur's specific requests for meetings were met and his movements in the country were facilitated appropriately. The documentation and information requested were provided promptly and fully. The Special Rapporteur would therefore like to reiterate his appreciation to the Government of Myanmar for its cooperation in facilitating his exploratory visit to the country and in responding to his requests for cooperation on human rights issues.

16. In Yangon, the Special Rapporteur met with the following Government representatives: Lieutenant General Khin Nyunt, Secretary-1, State Peace and Development Council (SPDC); U Win Aung, Minister for Foreign Affairs; Colonel Tin Hlaing, Minister for Home Affairs and Chairman of the Human Rights Committee; Major General Tin Ngwe, Minister for Labour; Ambassador U Win Mra, Director-General of International Organizations and Economic Development, Ministry of Foreign Affairs, and Lieutenant Colonel Hla Min, Department of International Affairs, Office of Strategic Studies.

17. The Special Rapporteur also visited and met with Daw Aung San Suu Kyi, leader of NLD, and U Lwin, U Nyunt We, U That Tun, U Hla Pe, and U Soe Myint, members of the NLD Executive Committee

18. The Special Rapporteur met with representatives of the following national civil society organizations: Myanmar Red Cross Society, Myanmar National Committee for Women's Affairs, Myanmar Maternal and Child Welfare Association, Young Women's Christian Association, Young Men's Christian Association, Myanmar Council of Churches, and Myanmar Baptist Convention. In addition, the Special Rapporteur met with representatives of international civil society organizations working in the country and with leaders and representatives of the following so-called national races of Myanmar: Wa, Kachin, Karen, Pa O, and Pa Laung, who invited him to visit their ethnic areas.

19. Finally, the Special Rapporteur also had an opportunity to exchange views with the members of the diplomatic and business community resident in Yangon and with representatives of the following United Nations organizations: UNDP, UNICEF, FAO, WHO, UNHCR, the United Nations International Drug Control Programme (UNDCP), the Joint United Nations Programme on Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (UNAIDS), and WFP.

20. While the purpose of the visit was to establish direct contact with the Government and the people of Myanmar, including their political and civil society leaders, its exploratory nature and brevity necessarily limited its scope. It is hoped that future visits will offer an opportunity to develop further a constructive dialogue for the effective promotion and protection of human rights in the country. The following is a brief summary of selected meetings conducted during the visit.

Meeting with Secretary-1

21. On the morning of 3 April 2001, Secretary-1 of SPDC, Lieutenant General Khin Nyunt, received the Special Rapporteur at the Ministry of Defence. The Special Rapporteur thanked Secretary-1 for the invitation to visit Myanmar, and expressed trust that this was a genuine sign of the Government's desire to cooperate with the Commission on Human Rights. He briefly explained the terms of his mandate, and his open-minded and transparent approach to its implementation. The Special Rapporteur also explained that the purpose of his mission was to open channels of communication and establish dialogue with the Government and other relevant persons in the country, with a view to furthering the promotion and protection of human rights.

22. The Secretary-1 reflected on the history of the mandate of the Special Rapporteur on the situation of human rights in Myanmar as set out by the Commission on Human Rights, and the cooperation his Government had offered to the Special Rapporteur's predecessors. He underscored the need for respect and understanding of the heavy responsibility his Government had assumed to ensure peace and stability, to end insurgency, and to set up democratic systems of governance in the country. The challenges it is facing include weak economic performance, the need to ensure the return of all armed groups to the legal fold, and the combat against the production and trafficking

of narcotics. Secretary-1 further stressed the necessity of maintaining a balance between the need to maintain peace and civility and the need for power-sharing in the country. He recognized the necessity and value of the political opposition and its potential constructive role in nation-building and the establishment of democratic systems in the country.

23. In response, the Special Rapporteur agreed with Secretary-1 that, while models of democracy might vary according to circumstances in a given country, the main objective for Myanmar must be the establishment of a compassionate democratic government. In this connection, he welcomed Secretary-1's remarks on the role played by the political opposition in the social development of Myanmar. He recognized the interconnectedness of economics and politics and made a reference to the universally recognized understanding that all rights — civil, political, economic, social and cultural, and the right to development — are indivisible and interconnected. In this connection, he assured Secretary-1 that he would take this into account while reflecting on the human rights situation in Myanmar in his reports to the Commission on Human Rights and the General Assembly.

Meetings with the Minister for Foreign Affairs

24. The Minister for Foreign Affairs, U Win Aung, received the Special Rapporteur on the morning of 3 April and the afternoon of 5 April 2001, during which various issues related to the mandate of the Special Rapporteur were discussed. The Foreign Minister assured the Special Rapporteur that his Government was ready to cooperate with him to further the interests of the people of Myanmar. Both agreed that there was a need to establish trust, conduct ongoing consultations, and work on concrete issues. The Foreign Minister further explained his Government's aim of moving towards the emergence of a democratic nation by pursuing the policy of non-confrontation.

25. The Special Rapporteur took note with satisfaction of the fact that the Government of Myanmar had released from detention a number of members of the opposition, some only days prior to his visit. He expressed the opinion that there was an urgent need to consider the release of the old, the mentally disturbed and those prisoners whose sentences had reportedly already expired. He received assurances that the Government had taken note of his position and that it would give it due consideration on a case-by-case basis.

Meeting with the Minister for Home Affairs and the Human Rights Committee

26. On the afternoon of 3 April 2001, the Special Rapporteur had an opportunity to meet with the Minister for Home Affairs and the Human Rights Committee, of which the Minister was a Chairman. The Committee is a 20-member body constituted in April 2000 by the Government of Myanmar under the patronage of Secretary-1 of SPDC. It has eight working groups dealing with issues ranging from international human rights law to health, education and labour. The meeting was an opportunity to exchange views on the human rights situation in Myanmar; on the role of the Special Rapporteur; on the strategies for the promotion and protection of human rights in the country; and on the role, in general terms, of national human rights institutions in the context of the international human rights system. The Special Rapporteur received a report on the Committee's activities to date and plans for the future, which he welcomed.

Meeting with the Minister for Labour

27. The Special Rapporteur met with the Minister for Labour on the afternoon of 3 April 2001. The Minister explained his Government's position on the issue of forced labour and measures taken in response to recommendations made by ILO's Technical Cooperation Mission. He emphasized the willingness of his Government to cooperate in the eradication of this practice and pointed out that while [illegible]nment directives banning the practice and the procedures to receive complaints were already in place, no such complaints had been received to date.

28. The Special Rapporteur thanked the Minister for clarification, and expressed his sense of encouragement at the news of the resumption of a dialogue between ILO and the Government of Myanmar concerning forced labour. He also expressed hope that the authorities would be able to find a way to establish modalities for cooperation in an objective and fair assessment of the situation.

29. Upon his return to Geneva on 6 April 2001, the Special Rapporteur participated at the Commission on Human Rights in the course of the same day with a statement containing a brief summary of his activities.

D. Proposed fact-finding mission

30. Since his April visit to Myanmar, the Special Rapporteur has maintained his regular contacts with senior officials from the Myanmar Government with a view to discussing his return to the country for a fact-finding mission. In parallel, he continued consultations with representatives of various United Nations, intergovernmental and non-governmental organizations, scholars and diplomatic missions. The Special Rapporteur undertook these activities during his visits to London (25 and 26 May) and Brussels (21 June) and his stays in New York (23-25 April) and Geneva (20 May-1 June, 17-22 June).

31. The Special Rapporteur made a formal request for undertaking a fact-finding mission to the country pursuant to his mandate in his letter to the Government of Myanmar dated 31 May 2001. He indicated that he looked forward to having a lengthier mission (from 10 days up to 2 weeks) starting in the last week of September 2001 and requested arrangements for his visit to several other locations, apart from the capital, including a ceasefire area, western border regions, and central areas. The Special Rapporteur expressed his interest in visiting universities, research institutes, schools, hospitals, returnee communities, and new life villages, as well as places of detention and labour camps where he could interact with detainees. He also conveyed his wish to assess developments in border areas and the life of ethnic populations. Further, the Special Rapporteur wrote that he would like to continue his dialogue with the Government's representatives and to have discussions with leaders and members of different political parties and with representatives of ethnic, religious, women's, student and youth groups.

32. On 27 June 2001, the Special Rapporteur received a letter from the Permanent Representative of Myanmar to the United Nations Office at Geneva, in which he communicated his Government's acceptance of the proposed visit by the Special Rapporteur, to take place in the final week of September 2001. The letter advised that arrangements would be made for the Special Rapporteur to meet "competent personnel and leaders of the national races" and that visits to border areas, universities, schools, research centres and "other interesting places" would also be included in the programme. It was proposed to work out the details of the programme at the next meeting of the Special Rapporteur with the Permanent Representative of Myanmar in Geneva in July 2001.

33. Taking the opportunity of his stay in Geneva for the session of the Subcommission on the Promotion and Protection of Human Rights from 30 July to 18 August 2001, the Special Rapporteur followed up with the Permanent Representative of Myanmar detailed arrangements for his fact-finding visit to the country.

III. Present dynamics of political transition

34. The Special Rapporteur believes that the country is about to enter a new phase which the international community must acknowledge and act upon. According to his observation, political transition is increasingly pressing on the Government of Myanmar as a necessary set-up to tackle more effectively and jointly with other political forces, in particular NLD and ethnic groups, the existing serious structural problems — poverty, malnutrition, a poor education and health system, decayed infrastructure, drugs and human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) — accompanied by a disquieting human rights situation.

35. These problems represent formidable challenges that are present in Myanmar more than in many other countries. The most important tasks for leaders and parties will be creating a democratic power structure and broadening the domain of democratic prerogatives.[2] Given the current political configuration, it is most likely that political reforms will take place with the participation of the military.[3] A change of the electoral system, inherited from British rule, to a proportional system may guarantee a better participation of all political forces. Among the requirements that will be necessary for a more dynamic activation of the transition process are the development of civil society organizations, a legal culture supportive of constitutionalism and the rule of law, a State bureaucracy capable of operating within professional norms and a well-institutionalized economic society.

36. Political transitions are very complex processes marked by the characteristics of particular contexts. Perhaps in the case of Myanmar, the most likely path for political reforms will be marked by an incremental approach to change, which has characterized many extrication processes from military regimes. This

approach may eventually provide solid foundations for a future democratic polity.

37. The comments in this report, while bearing in mind the historical trends, refer to a contemporary period embracing, inter alia, the 1988 events, the 1990 elections and, in particular, the recent engagement of the Government with the Special Envoy of the Secretary-General for Myanmar and the beginning of talks with Daw Aung San Suu Kyi in October 2000. The main changes that marked this period, had been provoked by two major events, namely, the 1990 elections and a ceasefire movement in ethnic minority areas, which have contributed to the rearrangement of the socio-political environment in society.[4] It is clear that the characteristics of the present dynamics will have profound implications for transition paths available and the tasks that Myanmar society is facing during the political transition process.

38. Since the 1990s, the society in Myanmar has been confronted by a slow and often painful pace of transition, with continuing unrest, political tensions, civil and political rights violations, a complex humanitarian situation and economic crisis. More than in any other transition process it will clearly become necessary to remember that, despite the sufferings and frustrations sometimes experienced by the society or the impatience of democratic forces and the international community, the polity in Myanmar is not immobile. In a political transition process each actor — the military, organized parties, ethnic groups, the civil society, and the international community — has an effect on the others, in the "field" of forces where they coexist. The meaning of this is that it may take some time yet for the Government and other political forces to arrive at a common ground for a road map to democracy; but the progressive diminishing of the isolation of Myanmar in its region and in the international community has started a probably irreversible process, despite the slow-motion timing and too many setbacks and reversals.

39. The transitional process in Myanmar, as in many contemporary liberalization processes, will probably pass through several phases: (a) dialogue and confidence-building; (b) reconciliation and (c) cooperation and joint action. According to the Special Rapporteur's observation, the process of political transition has already started. After those phases during which open elections and "power by the winner" will prevail, it would be possible to go towards democratic transition.

IV. Civil and political rights

A. General observations

40. The challenges for the promotion of civil and political rights in the process of orientation of the present regime towards democratic transition are immense. Overall, some positive movement is detectable in the area of civil and political rights and the trend is likely to continue. History suggests that when a society begins to appreciate the inherent quality and strength of a democratic, pluralist and transparent community, the positive changes are likely to become irreversible.

41. At the same time, the Special Rapporteur is aware, inter alia, through the reports of the thematic Special Rapporteurs to the fifty-seventh session of the Commission on Human Rights — the Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, on freedom of religion or belief, on the promotion and protection of the right to freedom of opinion and expression, on the independence of judges and lawyers, and on violence against women — that problems remain.

42. The Special Rapporteur has been following since his appointment the reports of international and regional non-governmental organizations and had the opportunity to benefit from their oral and written representations. The Special Rapporteur wishes to convey on this occasion the sincere expression of their concern for allegedly gross human rights violations in Myanmar and the plight of victims. He hopes that the Government of Myanmar will also be able to gain in future from a dialogue with many of those civil society organizations. The Special Rapporteur is aware that his mandate requires fact-finding and investigation of those allegations. At the same time, he believes that his work should go beyond the duplication of the excellent role of those organizations. He would therefore wish to develop fact-finding of his own by addressing those allegations with the interlocutors at the government level and other political actors during his next mission to Myanmar.

43. The Special Rapporteur is pleased to report that, since the ongoing transitional process began, there have been apparent some substantial signals indicative of the Government's inclination to engage in a constructive dialogue on human rights. Those include several initiatives, namely, the dissemination of human rights standards for public officials through a series of

workshops with the support of the Australian Government, the establishment of the governmental Committee on Human Rights, releases of political detainees, reopening of NLD branches, the continued international monitoring of prison conditions, and the dialogue with the Commission on Human Rights, inter alia, through the mandate of this Special Rapporteur, and with the Special Envoy of the Secretary-General for Myanmar and ILO.

B. Political prisoners

44. The issue of political prisoners has been at the top of the Special Rapporteur's agenda since his first contact with the officials of the Myanmar Government. He urged the release of political prisoners in all successive meetings with government interlocutors, including during his first visit to Myanmar.

45. On 2 July 2001, the Special Rapporteur sent a letter to the Government of Myanmar, referring to his previous discussions on the subject and reiterating his commitment to this important issue. While welcoming releases from detention of a number of members of the opposition, the Special Rapporteur recorded his particular concern about the continued detention and imprisonment of the members of the Parliament elect (MPs), especially when the Government was engaged in a dialogue with Daw Aung San Suu Kyi.

46. In annex 1 to his letter, the Special Rapporteur submitted a list of the following 12 MPs who had remained in detention without charge or trial in government "guest houses": 1. Saw Hlang Aka U Saw Hlaing, Indaw, Sagaing; 2. U Khin Maung Win, Okhtwin, Bago; 3. U Myo Win, Kawa, Bago; 4. U Tin Htut Oo, Laeway, Mandalay; 5. U Tin Shwe, Waw, Bago; 6. U Tun Kywe, Nyaunglebin, Bago; 7. U Aung Soe Myint, Taungngu, Bago; 8. U Hla Thein, Tamwe, Yangon; 9. U Thein Myint, Tamwe, Yangon; 10. U Thein Nyunt, Thingangyun, Yangon; 11. U Win Myint, Danubyu, Ayeryarwaddy; 12. Dr. Aung Moe, Phwint Phyu, Magway.

47. In Annex 2, the Special Rapporteur presented a list of another 31 MPs who allegedly remained imprisoned on account of their peaceful exercise of the rights to freedom of assembly, association and expression: 1. Chit Htwe, NLD Myothit 2, Magway; 2. Do Htaung Aka U Do Thawng, NLD Kalay, Sagaing; 3. Dr. Aye Kyu, NLD Latputta 2, Ayeyarwady; 4. Dr. Myint Naing Aka Than Chaung Aka Maung Than, NLD Kanbalu, Sagaing; 5. Dr. Zaw Myint Maung, alias Dr. Myint Aung, NLD Amarapura, Mandalay; 6. Dr. Aung Khin Sint, NLD Mingala Thaungnyunt, Yangon; 7. Dr. Than Nyein Aka U Than Nyein, NLD Kyauktan 1, Yangon; 8. Dr. Min Soe Lin, Mon National Democratic Party (MNDP) Ye 1, Mon State; 9. Dr. Myo Nyunt, NLD Dedaye 1, Ayeyarwady; 10. Duwa Zaw Aung, NLD Waingmaw, Kachin State; 11. Khin Maung Swe Aka Ye Kyaw, NLD Sanchaung, Yangon; 12. Khun Myint Tun, NLD Thaton, Mon State; 13. Kyaw Khin, NLD Taunggyi, Shan State; 14. Kyi Myint, NLD Latha, Yangon; 15. Kyi Win, NLD Latputta, Ayeyarwady; 16. May Win Myint, NLD Mayangone, Yangon; 17. Min Kyi Win, MNDP Mudon, Mon State; 18. Nyunt Hlaing, NLD Myayde 1, Bago; 19. Ohn Kyaing Aka Aung Win, NLD Mandalay SE; 20. San San (F), NLD Seikkan, Yangon; 21. Saw Naing Naing, NLD Pazundaung, Yangon; 22. Sein Hla Oo, NLD Insein 2 Yangon; 23. Soe Myint, NLD Min Minby 1, Magway; 24. U Myint Naing, NLD Kantbalu 2, Sagaing; 25. U Saw Oo Reh, NLD Phruso, Kayah; 26. U Kyin Thein, NLD Kya In Sei Kyi, Kayin; 27. U Kyaw San, NLD Taze 1, Sagaing; 28. U Ohn Maung, NLD Nyaunglebin 1, Bago; 29. U Aung Myint, NLD Latpadan 1, Bago; 30. U Nyunt Aye, NLD Latpadan 2, Bago; 31. U Kyi Lwin, NLD Ngaphae, Magway.

48. In pursuance of the understanding he had reached with the Government during his April visit, the Special Rapporteur also requested the consideration of the release, on humanitarian grounds, of other persons imprisoned for political reasons whose cases fell within the categories of the old, the ill and those whose sentences had reportedly already expired. Annex 3 of his letter contained information regarding the following 5 individual cases:

Case 1: U Win Tin, journalist and one of the veterans of NLD. Arrested on 4 July 1989, currently serving his 20-year sentence in Insein prison, will be 78 years old when the sentence is completed. He has continuously suffered from poor health during his imprisonment owing to the harsh prison conditions. His case was also raised by the Special Rapporteur on the question of torture by letter dated 5 October 2000.

49. **Case 2**: Min Ko Naing, student activist and founder of the All Burma Federation of Student Unions (ABFSU), arrested on 24 March 1989 and sentenced to 20 years' imprisonment (later commuted to 10 years under a general amnesty), has been held in solitary confinement for most of his imprisonment, which resulted in poor physical and mental health. He is

reportedly held in Sittway prison, Rackhine State, although he completed his sentence in March 1999. He was visited briefly by the Special Rapporteur on the situation of human rights in Myanmar in November 1994.

50. **Case 3**: Dr. Zaw Min, 41 years old, medical doctor and writer, arrested on 30 July 1989 for alleged contacts with the Burma Communist Party. Sentenced to 20 years' imprisonment (later commuted to 10 years), has been held in solitary confinement for significant lengths of time throughout his imprisonment, has consequently suffered major psychological damage, is currently held in Mandalay prison. He should have been released in 1999 on completion of his sentence.

51. **Case 4**: Daw San San Nwe, journalist and writer, mother of six children in mid-50s, reportedly arrested in August 1994 for allegedly passing on information to foreign journalists, and sentenced to 10 years' imprisonment. She is said to be in poor health in Insein prison because of high blood pressure, heart problems and paralysis on the right side of her body. Her case was also raised by the Special Rapporteur on the question of torture by letter dated 5 October 2000.

52. **Case 5**: U Cho Aung Than, 54 years old, assistant (also cousin) to Daw Aung San Suu Kyi, arrested with his sister Khin Ma Than and her husband Shwe Myint Aung on 13 June 1997 in connection with alleged involvement in opposition activities. He is held in an Insein prison and is reportedly in poor health because of high blood pressure.

53. On 30 July 2001, the Special Rapporteur received a reply from the Permanent Representative of Myanmar to the United Nations Office at Geneva informing him that all politicians mentioned in annex 1 of his letter had been released and sent home by 13 July 2001 except U Khin Maung Win who was not in the category of politicians taken to the government guest houses for questioning. He was mentioned as serving his sentence for unlawful gambling and other criminal offences. Furthermore, the letter informed about the release on 2 July 2001 of U Aye Win (Daw Aung San Suu Kyi's cousin). With regard to the politicians referred to in annex 2 of the Special Rapporteur's letter, Dr. Aye Kyu, Dr. Aung Khin Sint, U Kyi Win and U Nyunt Hlaing were said to have been released on 18 July 2001. From the list of selected cases in annex 3, Daw San San Nwe (case 4 above) was released on 18 July, as were U Myint Swe and Daw Nge Ma Ma Than (a close relative of Daw Aung San Suu Kyi) (case 5 above) on 26 July. The letter noted that these politicians had been released before completion of the terms of their respective sentences and that some of the politicians mentioned in annexes 2 and 3 were serving their respective sentences not for political reasons but because of criminal offences. In this connection, it was called to the Special Rapporteur's attention that his request has been given careful consideration by the authorities and the above-mentioned cases were being reviewed on a case-by-case basis. Subsequently, the Special Rapporteur was informed of the release on 31 July 2001 of U Khin Maung Win, the only one having remained unreleased among those mentioned in annex 1 of his letter, together with three other MPs.

54. The Special Rapporteur acknowledges that the release of more than 160 prisoners from jails and guest houses since the beginning of the year is an important step in political transition. These included 84 in January, 16 in March, at least 27 in June in 5 batches (on 13, 14, 15, 21 and 28 June), another 40 in July in 6 batches (on 2, 6, 13, 18, 26 and 31 July), and 2 on 13 August. Most of those freed were NLD members, including all MPs detained without charge or trial, some since July 1998. Among those released were, for instance, 83-year-old Dr. Saw Mra Aung, leader of the Arakan League for Democracy and a leading member of the Committee Representing the People's Parliament; U Soe Thein, editor and MP; and comedians U Pa Pa Lay and U Lu Zaw, known as "the Moustache Brothers".

55. The Special Rapporteur welcomes these releases but notes that there are many cases that he hopes the Government will consider in the near future. Among those, for instance, is that of a 71-year-old journalist and founding member of NLD, U Win Tin, who is one of 18 media professionals remaining in prison. Detained since July 1989, he is serving a 20-year sentence for peaceful political activities and is in very poor health. Reportedly, there are also 28 MPs, the majority being NLD members. Three NLD leaders — Daw Aung San Suu Kyi, U Tin Oo and Aung Shwe — remain under de facto house arrest since September 2000. It has been learned, however, from government sources that Daw Aung San Suu Kyi and her colleagues can perform social and religious activities and are doing so. Some foreigners have been given access to her. It has also been observed by the government authorities that this is an arrangement made in view of the present dialogue.

C. Political freedoms

56. Reportedly, a total of 24 MPs elect operate in exile, of whom 13 are NLD members and the remainder members of ethnic parties such as Chin National League for Democracy, Democratic Organization for Kayan National Unity, Shan Nationalities League for Democracy, Lahu National Development Party, Zomi National Congress, and Party for National Democracy.

57. In the country, since the start of secret talks with Suu Kyi, "the war of words" in the media has stopped and the activities of NLD and opposition parties are becoming more visible. In June 2001, 18 out of 40 NLD offices in eight townships of Yangon Division were permitted to reopen, of which 9 could put up their old party signboards. For the first time in many years, there has begun a regular communication between the NLD offices and their national leadership. Reports indicate that U Lwin and other Executive Committee members appear regularly at the NLD Head Office in Yangon. Another prominent NLD office in Mandalay Divisions is also said to have started functioning. However, whether members can move freely in their respective townships is not known as yet.

58. Further steps in this direction will contribute to achieving national reconciliation and peace and improving the human rights situation in the country, including, in particular, through full respect in law and practice for the rights to association, participation, and free expression. Civil society organizations, trade unions, and media are decisive for the promotion of both human rights and human development. In many countries undergoing a gradual transition to democracy, civil society organizations can take a lead in advancing human rights. Several countries in Asia have experienced similar gains. For instance, Indonesia, despite serious setbacks and a somewhat complicated political landscape, and the Republic of Korea have become more open, recognizing the need to advance cooperation with society, thereby advancing the cause of human rights.[5] The Government of Myanmar in the present juncture could also benefit immensely from supporting an environment that can promote grass-roots civil society organizations in all walks of life. The existence of 2,000 such organizations in Myanmar, with a leading role played by women, is a positive fact, but their main focus is limited to social welfare issues.

59. As noted by the Committee on the Application of Standards during the eighty-ninth session of the International Labour Conference (ILC) (June 2001), serious discrepancies persist between the national legislation and practice of Myanmar and the provisions of ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, 1948[6] (to which Myanmar has been a party since 1955). The Committee mentioned this case as one of continued failure to implement the Convention and once again strongly insisted that the Government adopt, as a matter of urgency, the measures and mechanisms necessary to guarantee to all workers and employers, the right to join organizations of their own choosing, without previous authorization, and the right of these organizations to affiliate with federations and international organizations, without interference from public authorities.

D. Conditions in prisons

60. A number of reports allege the continued prevalence of poor conditions in Myanmar prisons; therefore the Special Rapporteur intends to report more extensively on the conditions of the prisons in the country after his visit to Myanmar in September 2001. In the meantime, he is pleased to note that international monitoring of prisons and detention facilities continues to take place. Since the beginning of such monitoring in May 1999, the International Committee of the Red Cross (ICRC) has been given access to prisons, detention places known as guest houses, and labour camps. Currently, ICRC has visited — on one or more occasions — 49 places throughout the country. The Special Rapporteur takes this opportunity to express his respect for ICRC's strict rules of confidentiality.

E. Forced labour

61. During the period under review, ILO continued its engagement with the Government of Myanmar on the question of forced labour in application of the resolution adopted at the eighty-eighth session of ILC (June 2000). The Myanmar case was discussed at the two hundred eightieth session of the ILO Governing Body (March 2001). ILO sent a mission to Yangon (17-19 May 2001), which negotiated with the Government of Myanmar the terms of reference for a high-level ILO mission to visit the country later this year, with a view to carrying out an objective assessment of the practical implementation and actual impact of the framework of legislative, executive and administrative measures

reported by the Government. The Committee on the Application of Standards examined the case of Myanmar at its special sitting (11 June 2001) during the eighty-ninth session of ILC. The main point at issue was the conditions under which the measures requested by ILC in its June 2000 resolution might be lifted.

62. The issue of forced labour in Myanmar was also addressed by the Economic and Social Council during its 2001 substantive session. On 25 July 2001, the Council adopted by consensus resolution 2001/20, in which it took note of the 2000 ILC resolution on action to secure compliance with the recommendations of the Commission of Inquiry established by ILO to examine the observance of Myanmar of its obligation in respect of the Forced Labour Convention, 1930 (No. 29), in which the Conference recommended the inclusion of the item in the agenda of the Council. The Council, in that resolution, also noted the conclusions adopted by ILC at its eighty-ninth session (2001); took note of the understanding concluded between the International Labour Office and the authorities of Myanmar regarding an objective assessment to be carried out by an ILO high-level mission with respect to the practical implementation and actual impact of the framework of legislative executive and administrative measures reported by Myanmar within the overall objective of the complete elimination of forced labour in law and practice, whose composition would be defined by the ILO Director-General and whose report would be examined by the November 2001 meeting of the ILO Governing Body; and requested the Secretary-General to keep the Council informed of further developments in that matter.

63. The Special Rapporteur welcomes the official ban on the practice of forced labour in Myanmar; however, he is fully cognizant of the extent of the problem. He intends to report more extensively on the matter after his visit to Myanmar in September 2001.

V. Vulnerable groups

A. Ethnic minorities

64. The Special Rapporteur has received reports about the disquieting situation of ethnic minorities, particularly those living in zones of counter-insurgency operations (mostly in Shan, Mon, Kayah and Kayin States). In those places, reportedly, the immediate and accumulated impacts of armed conflict, human rights abuses — including torture, arbitrary executions, deliberate killings, indiscriminate use of landmines, pressure to join military force exerted by both the government troops and armed opposition groups — and the combined effects of poverty, lack of basic social infrastructure and attitudes/practices of local authorities make people fearful for their lives, their families and their future. As a result, many of them seek refuge in neighbouring countries or hide in "displaced villages" in the forest. Protection and assistance concerns as a result of armed conflict should therefore include, in the first place, reaching vulnerable groups such as internally displaced women and children. In practice this will be possible when there is a humanitarian space, that is to say, a ceasefire for humanitarian purposes or, ideally, a nationwide ceasefire which will then also contribute to the process of national reconciliation.

65. According to several reports, which the Special Rapporteur hopes to be able to verify during his forthcoming mission, in some ethnic areas there have allegedly been indications of a pattern of "racially/ethnically motivated" discriminatory policies. The situation of Muslim and Hindu minorities in Arakan State (they number about 1 million) was brought to the attention of the Special Rapporteur. Reportedly, as non-citizens they are subjected to a rule according to which they are required to obtain authorization to travel outside their township. The implementation of this rule is said to have been tightened, especially after reported clashes between Rakhine Buddhists and Muslims in Sittwe, the State capital, in February 2001. The official fee for the application, depending on the distance of travel, could be anywhere between 25 and 50,000 kyats (US$ 1000). Allegedly, at present only a few rich people can afford a travel authorization. Moreover, reportedly it would be easier to leave Sittwe, but very difficult to return to it, in particular from Maungdaw, Buthidaung and Rathedaung townships, which are predominantly Muslim and Hindu. Such restrictions would affect the livelihood of common Muslims and Hindus, compelling some of them eventually to leave the country.

66. The Special Rapporteur wishes to recall that under the international human rights law, limitations on the exercise of the right to freedom of movement are permissible provided they are based on clear legal grounds and meet the test of necessity and the requirements of proportionality. More importantly, the permissible restrictions should be consistent with

fundamental principles of equality and non-discrimination.[7]

B. Children

67. Among the areas of concern that are relevant in the discussion of child rights in Myanmar, the Special Rapporteur wishes to mention, in particular, the problem of child soldiers, regarding which he intends to report in more detail after his visit to Myanmar in September 2001. In the view of the Special Rapporteur, there is a close nexus between this problem, which is a form of child labour, and poverty. At one level, child earnings are necessary for family survival and at another level when a household is able to forgo the child's income it cannot afford the direct costs of schooling.

68. Official figures of net enrolment and retention rates of school-age children reveal that only half of Myanmar children aged 5 to 15 years complete the primary cycle. Based on these figures, it is estimated that 25 per cent of children never enrol and, out of those who do, only one third are able to complete the full five-year cycle of primary schooling. Furthermore, approximately one quarter of the children in age group 10-14 (about 1.25 million children) are engaged in paid work and there is a growing number of street children concentrated in urban areas. This is further aggravated by the plight of thousands of children and women who have become internally displaced or illegal migrants in neighbouring countries.

69. Child health, tuberculosis and malaria remain major concerns in the country. Almost one quarter of Myanmar babies are born underweight, with long-term nutritional implications. By the time children reach age 5, 1 in 3 is moderately to severely malnourished. This is compounded by the fact that about 3.6 million children and 1.1 million pregnant women live in areas considered to be at high or moderate risk for malaria transmission. Furthermore, the country is estimated to have no less than 81,000 new cases of tuberculosis annually. To date, only a small section of the population has access to proper medical care.

VI. Current humanitarian situation

70. The Special Rapporteur agrees with the internal assessment of the humanitarian situation in Myanmar made by the United Nations agencies present in the country (UNDP, UNICEF, WFP, UNFPA, UNDCP, UNHCR, FAO, WHO and UNAIDS), as well as with the corresponding need to develop a consistent approach related to the mandates of the respective United Nations agencies.

71. The Special Rapporteur shares the view that the cost of delaying assistance will be substantially higher as the magnitude of problems escalates (for example, HIV/AIDS), human capital degenerates (for example, increasing illiteracy, low completion rates in primary school), natural resources diminish and disparities widen (for example, among geographical regions and among ethnic minorities). Delayed assistance may also have an escalating effect on the illicit narcotic business, resulting in negative social impact within Myanmar and in the region, as well as on other transitional problems, such as illegal migration and population displacements. The current peripheral or piecemeal assistance provided to Myanmar is not adequate to reverse or even slow down certain negative trends. Nor is it sufficient to decrease economic and social disparities, which pose a potential threat to internal and regional peace and security.

72. The fact that Myanmar has very limited access to official development assistance (ODA) from developed countries and multilateral financial institutions, was especially true in the past decade.[8] The total annual ODA currently provided to Myanmar is about US$ 1 per capita compared with US$ 35 for Cambodia and US$ 68 for the Lao People's Democratic Republic (1997 figures). As a result, the population's needs are only marginally addressed by restricted humanitarian assistance provided mostly through the United Nations system and a few international civil society organizations.

73. The United Nations organizations operating in Myanmar make the utmost effort to address the most crucial humanitarian concerns in a coordinated and collaborative manner, within the mandatory operational constraints that some of them may have. The Special Rapporteur welcomes the fact that the United Nations Country Team has selected HIV/AIDS, illicit drugs and food security as three priority areas for consultation and common action based on its assessment of the country situation.

74. The Special Rapporteur is convinced that humanitarian aid is essential and appropriate in Myanmar now. However, the Government is responsible for the creation of a positive environment whereby international assistance could be given and

could effectively reach the most vulnerable sections of the population, in particular internally displaced women and children, persons affected by HIV/AIDS and the poor, especially in ethnic minority States. If aid was to be given with carefully designed monitoring, then the great chasm between central Myanmar and the ethnic States could be narrowed, and from the minority perspective, this will most definitely be a vital way to stabilize the peace and foster reconciliation. This will also constitute major support for a fragile development progress at this complex time of transition as Myanmar has moved from low development to medium human development in four years and ranked one hundred eighteenth on the human development index of UNDP out of 162 countries.[9]

VII. Conclusions and recommendations

75. No country in the world can escape international human rights monitoring. Independent and objective scrutiny of human rights situations in the modern world has occurred everywhere. As Mr. Ayalla Lasso, the former United Nations High Commissioner for Human Rights, once said, "in terms of human rights, all countries are somewhat ill". In consequence of the evolution and universalization of human rights standards, every country in every region of the world, North and South, developed and underdeveloped, faces human rights issues that are waiting to be addressed. Accordingly, observations presented in this interim report must be understood as a contribution to a constructive dialogue on human rights with the Government of Myanmar.

76. The main challenge for all sides in Myanmar is to find ways to contribute to the restoration of optimum human conditions for all people, which lies through the path of respect for human rights, human security and humanitarian principles. Instead of polarization, partisanship and the demonization of the adversary, weight must be given to a shared ground and a mutually beneficial dialogue, conducive to genuine reconciliation. Government, political parties and ethnic groups may not share common views on everything, but perhaps common goals in a few fundamental areas could be (and probably are being) identified. In this regard, it is appropriate to recall at this moment a verse from Buddha's teaching, *Vivadam Khemato*, that "all disputes and conflicts are settled by conference and discussion".

77. Every Government must express compassion for the sufferings of its own people. The Buddha, instructing his five disciples at Isipatana, the deer sanctuary, immediately after his enlightenment, urged them "to wander through the land as teachers of compassion for the pain-ridden world, for the good of many, for the welfare and happiness of many".[10] A compassionate Government promotes social policies that meet the basic needs of the people. More than ever it is required that the Government of Myanmar adopt a more "pro-people" stance. The Special Rapporteur is convinced that a breakthrough that guarantees this course will require at the same time a new flexibility on the part of the military Government, Western democratic countries and the international community as a whole.

78. The Special Rapporteur is convinced that the present juncture in Myanmar seems to favour a consistent strategy that may allow different actors in and outside the country to work together or towards the same goals. More than ever it is necessary that all States, especially those with responsibilities at present because of their role in the past and those in the region, put a serious emphasis on continuous dialogue and negotiation with the Government of Myanmar. The Special Reporter also believes that it would be most beneficial if the international community could renounce for the time being any aggravation of economic sanctions and, on the contrary, try to evaluate the effect of sanctions on the most vulnerable groups of the Myanmar population.

79. The Special Rapporteur is of the view that already at this stage, all players could start working together on non-political/social issues — one being, for instance, that of HIV/AIDS prevention. This may well become a focal point for humanitarian assistance, which may also develop into a clinic, comprising building a consultative process at the local level, bringing together the government, opposition, ethnic players and the local community, and creating an atmosphere of mutual trust.

80. The Special Rapporteur joins his voice to several other voices in the United Nations, as well as in the academic and international arenas, which declare that a serious humanitarian situation exists in Myanmar, particularly affecting the common people. It is not fair to human rights and humanitarian law principles to defer an adequate humanitarian assistance until the end of transition, thereby denying cooperation for promoting human development and fighting poverty. It

would also be a mistake that will have serious consequences by weakening and delaying the process of building social capital, developing leadership capacity, and encouraging a more dynamic civil society which will contribute to laying the foundations for democratic processes. Finally, it must be clear that to make coordinated efforts to alleviate the humanitarian situation does not require or imply renouncing the long-term objective of helping democratic transition: there is no permanent solution for the pressing needs of the Myanmar peoples outside the framework of a process of transition to democratic constitutionalism.

81. It is now a good moment to initiate a thorough assessment of the complex and urgent humanitarian situation in Myanmar. The Special Rapporteur thinks that diverse proposals made by academics and observers must be taken into account in adjusting the framework of humanitarian relief and development. Among those, he highlights the formation of an international consortium or consultative group of international non-governmental organizations interested in channelling donor Governments' co-financing and committed to implementing a package of grass-roots initiatives in Myanmar. If any international organization could initiate that process, then the United Nations system could act as an intermediary with the Government.

82. As a sizeable number of political prisoners still remain in prisons, with many of them serving long terms, the Special Rapporteur stresses once more that only the full release of all political prisoners will pave the way to national reconciliation and the establishment of the rule of law leading towards the democratization process. No transitional process can be effective without the release of all political prisoners.

83. As part of national preparation for and follow-up to the special session of the General Assembly on children in September 2001, especially in view of the magnitude of the existing problem in Myanmar, the Special Rapporteur calls on the Government to give priority to the ratification of the Optional Protocol[11] to the Convention on the Rights of the Child[12] on the involvement of children in armed conflict. Even if national legislation providing for 18 years as the minimum age for compulsory recruitment in the armed forces already exists in Myanmar, the Optional Protocol will add value, as it calls on States to raise the minimum age from 15 years set in the Convention for voluntary recruitment in governmental forces.

84. The Special Rapporteur welcomes the cooperation of the Myanmar Government with ILO on the issue of forced labour and commends as well the ILO commitment to keep up its engagement with the Myanmar authorities. He hopes that this expression of good will by the Myanmar Government will soon lead to a greater compliance of Myanmar with international labour/human rights standards.

85. Priority must also be given to the ratification of the core human rights instruments including the International Covenant on Economic, Social, and Cultural Rights[13] and the International Covenant on Civil and Political Rights,[14] together with the Optional Protocols thereto,[15] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[16] the International Convention on the Elimination of All Forms of Racial Discrimination[17] and the Convention on the Elimination of All Forms of Discrimination against Women.[18]

Notes

[1] See *Official Records of the Economic and Social Council, 1992, Supplement No. 2* (E/1992/22), chap. II, sect. A.

[2] Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation* (Baltimore, Maryland, and London, Johns Hopkins University Press, 1996), pp. 67-68.

[3] Robert Taylor, "The constitutional future of Myanmar in comparative perspective", in *Burma: The Challenge of Change in a Divided Society*, Peter Carey, ed. (London, McMillan Press, 1997), p. 65.

[4] Martin Smith, "Ethnic conflict and the challenge of civil society in Burma", in *Strengthening Civil Society in Burma*, Burma Center Netherlands Transnational Institute, ed. (Chiang Mai, Thailand, Silkworm Books, 1999), pp. 15-54.

[5] UNDP, *Human Development Report, 2000* (New York, Oxford University Press, 2000), box 3.7.

[6] See ILO, *International Labour Conventions and Recommendations, 1919-1951*, vol. I (Geneva, International Labour Office, 1996), sect. I, Conventions.

[7] See General Comment No. 27 (67) concerning article 12 (freedom of movement) of the International Covenant on Civil and Political Rights, *Official Records of the General Assembly, Fifty-fifth session, Supplement No. 40* (A/55/40), paras. 11-18 ("Restrictions").

[8] Country presentation by Myanmar, Third United Nations Conference on the Least Developed Countries (2001) (A/CONF.191/CP/3), p. 23.

[9] UNDP, *Human Development Report, 2001* (New York, Oxford University Press, 2001), Human development indicators, table 1, Human development index.

[10] Gustaaf Houtman, *Mental Culture in Burmese Crisis Politics*, Monograph Series (Tokyo, Institute for the Study of Languages and Cultures of Asia and Africa, 1999), p. 220.

[11] General Assembly resolution 54/263, annex I.

[12] General Assembly resolution 44/25, annex.

[13] See General Assembly resolution 2200 A (XXI), annex.

[14] Ibid.

[15] Ibid.; and General Assembly resolution 44/128 (Second Optional Protocol aiming at the abolition of the death penalty).

[16] General Assembly resolution 39/46, annex.

[17] General Assembly resolution 2106 A (XX), annex.

[18] General Assembly resolution 34/180, annex.